

OPINION 2368 (Case 3410)***Raja say* Le Sueur, 1817 (currently *Dasyatis say*; Chondrichthyes, Myliobatiformes, DASYATIDAE): original spelling maintained**

Abstract. The Commission has not approved the application to emend the spelling *Raja say* Le Sueur, 1817 to *Raja sayi* Le Sueur, 1817. The original spelling is maintained.

Keywords. Nomenclature; taxonomy; Chondrichthyes; Myliobatiformes; DASYATIDAE; *Dasyatis say*; *Dasyatis sayi*; *Raja say*; bluntnose stingray; Western Atlantic.

Ruling

- (1) It is hereby ruled that the application for the proposed emendation of the specific name *Raja say* Le Sueur, 1817, by ruling that it was an incorrect original spelling, is not approved.
- (2) The name *say* Le Sueur, 1817, as published in the binomen *Raja say*, is hereby placed on the Official List of Specific Names in Zoology.
- (3) The name *sayi* Müller & Henle, 1841, as published in the binomen *Trygon sayi*, is deemed an unjustified emendation of *say* Le Sueur, 1817, the subject of Ruling (2) above, and is hereby placed on the Official Index of Rejected and Invalid Specific Names in Zoology.

History of Case 3410

An application asking the Commission to rule that the spelling of the name *Raja say* Le Sueur, 1817 (currently *Dasyatis say*) for the bluntnose stingray be changed to *Raja sayi* Le Sueur, 1817 to follow Müller & Henle's (1841) unjustified emendation was received from H.R.S. Santos (*Universidade do Estado do Rio de Janeiro, Brazil*) and M.R. de Carvalho (*Universidade de São Paulo, Brazil*) on 19 April 2007. After correspondence the Case was published in BZN 65: 113–123 (2007). The title, abstract and keywords of the Case were published on the Commission's website. Comments on this Case were published in BZN 67(1): 66–67, 67(2): 167–170. The Case was originally sent for vote on 1 June 2009 (VP18). A majority of Commissioners voted FOR the Case (14 For, 8 Against), but it failed to meet the two-thirds majority required for approval. In accordance with the bylaws, the Case was sent for a revote. On 1 June 2011, the Case was sent for the second round and failed (9 For, 15 Against). The second round was cancelled (nullified) on 19 January, 2012 after it became apparent that an alternative proposal, published in a comment by Commissioner Kojima, asking under the specific powers to rule that *sayi* Müller & Henle, 1841 is an unjustified emendation of *say* Le Sueur, 1817, as published in the binomen *Raja say*, should have been formalised and included in the voting paper as a separate set of proposals. After discussions the two sets of proposals were sent for a new second round on 1 June 2013 (VP 7). The majority of Commissioners voted AGAINST set 1 (10 For, 14 Against), which thus failed, but a majority voted FOR set 2 (16 For, 9 Against), which thus passed, a simple majority sufficing for matters not involving the plenary power.

Decision of the Commission

At the close of the voting period on 1 September 2013 the votes were as follows:

Set 1 (asking the Commission to use its plenary power to rule that *say* Le Sueur, 1817, as published in the binomen *Raja say* Le Sueur, 1817 is an incorrect original spelling):

Affirmative votes – 10: Ballerio, Bouchet, Brothers, Halliday, Harvey, Kottelat, Lim, Rosenberg, Yanega and Zhou.

Negative votes – 14: Alonso-Zarazaga, Bogutskaya, Fautin, Grygier, Kojima, Krell, Kullander, Lamas, Minelli, Pape, Štys, van Tol, Winston and Zhang.

Ng, Patterson and Pyle were on leave of absence.

Set 2 (asking the Commission to use its specific powers to rule that *sayi* Müller & Henle, 1841 is an unjustified emendation of *say* Le Sueur, 1817, as published in the binomen *Raja say*): A majority of Commissioners voted FOR this set (14 For, 10 Against).

Affirmative votes – 16: Alonso-Zarazaga, Bogutskaya, Brothers, Grygier, Kojima, Kottelat, Krell, Kullander, Lamas, Ng, Pape, Patterson, Štys, van Tol, Winston and Zhou.

Negative votes – 9: Ballerio, Bouchet, Fautin, Halliday, Harvey, Lim, Rosenberg, Yanega and Zhang.

Pyle was on leave of absence, but made a comment (below).

In the first round of voting the Commissioners commented as follows:

Voting AGAINST, Alonso-Zarazaga said that the original name must be conserved if usage were split, as was the case. In his opinion the authors did not make it absolutely clear that *D. sayi* was in prevailing use. Also voting AGAINST, Grygier noted that this Case should have been phrased to ask for a definitive choice of one spelling over the other, e.g. by preparing two alternative sets of proposals. He also advised that care must be taken not to misapply the phrase ‘irrespective of how long ago’ in the Glossary’s definition of ‘prevailing usage’. If there were recent works, they alone sufficed as ‘most recent’. Only if there were in fact no recent works, and the ‘most recent’ were from 100 years ago, was it necessary to go back that far. Also, it was not ‘works’ per se that were to be counted in assessing ‘prevailing usage’, but ‘authors’. Looking only at the actual ‘most recent’ works among those cited, since the year 2000 seven authors have used *say* and 11 *sayi*; since 1990 nine authors have used *say*, and 19 *sayi*. This indicated a majority in favour of *sayi*, but a declining majority, and perhaps not a ‘substantial’ majority over either time span (between 1.5 and 2 to 1 in favour of *sayi* over the past one or two decades, respectively). He added that it was thus equivocal whether a state of ‘prevailing usage’ existed, and that he therefore favoured maintaining the original spelling. Voting AGAINST, Kojima said that the opposite proposal (definitive decision that *sayi* is an unjustified emendation even though it is in prevailing use) could be adequate. Fautin, also voting AGAINST, said that prevailing usage was a fuzzy area, and in this case it seemed there was not a strong preponderance of use either way, so priority should therefore rule. Voting AGAINST, Kottelat commented that, as the original spelling was still regularly used, he did not see any reason not to stick to the Principle of Priority. Also, he failed to see how the same name could be on an Official List and at the same time as an

incorrect spelling on the Official Index. The Index lists names, not spellings, he noted. Kullander, who also voted AGAINST, said that the original and correct spelling *say* and the unjustified emendation *sayi* were both in use. Applicants wanted to fix the spelling according to grammar and inferred meaning, while *say* had priority and was in use. He thought that this was also an unnecessary Case, and usage could be established on the basis of the original spelling. Voting FOR, Yanega said that Case 3410 suggested that the authors were confused by the concept of prevailing usage and wanted the Commission to vote on it. He assumed that there was a precedent for using the Commission simply to give its imprimatur on the spelling in prevailing use, if it was possibly contentious.

In the cancelled (nullified) second round of voting, the Commissioners commented as follows:

Voting FOR, Harvey said that this was a clear case of how the Commission's intervention could clear up a small but vexatious form of instability where two versions of the species-group name were in use. The original spelling of a name should not be seen as sacrosanct when there were clear cases of subsequent confusion. He supported the proposal to stabilise the name. Kojima, who voted AGAINST, said that the authors showed that *D. sayi* was not in absolutely prevailing use. Thus the original name, *say*, should have been conserved and the definitive decision that *sayi* was an unjustified emendation should have been made. Voting FOR, Kottelat said that when the original spelling was still regularly used, the argument of prevailing usage of the incorrect spelling was flawed and he would normally stick to the original spelling. He added that, on the other hand, personal names used in apposition were misleading and this one had had a long history of erroneous spelling. Additional confusion was created by the word being very short and identical to a common verb in English (to say). If *say* was retained, the misspelling would certainly continue and the instable situation would perdure. If *sayi* were retained, *say* would soon disappear and stability would be more likely achieved. At a different level, he repeated that he failed to see how the same name could be on an Official List and at the same time as an incorrect spelling on the Official Index and he reaffirmed his previous conclusion that the Index listed names, not spellings. Kullander saw no reason to change his AGAINST vote. He said that the name *say* was in frequent use and had priority. The unnecessary genitive form *sayi* had no innate superiority, and petitioners were mistaken if they insisted that personal names must always be in genitive form. Ng, who voted AGAINST, said that there was no clear consensus which name was the more widely used. Personally, he preferred '*sayi*' but to ensure stability, the basic rules should be observed, so the name should be kept as it was originally spelled – *say* – as a noun. Voting FOR, Rosenberg noted that '*Raja say*' was an inherently confusing name, for reasons given in more detail below. A vote against adding the name *sayi* to the Official List would not prevent authors from invoking Article 33.2.3.1 to maintain the usage of the name; in fact the application itself stated that the name had been in prevailing use.

Comments leading to cancellation of the second round:

Discussing the outcome of the vote, Rosenberg said that the Case was flawed because an alternative proposal had been made in the comments of Commissioners, but the voting paper had not been changed to reflect this. If we vote against the proposal as

it stands, he added, the authors could still invoke prevailing usage to retain the name *Raja sayi*. In fact, they had already stated the epithet to be in prevailing use in paragraph 5 of the application. It would be better to vote explicitly for one resolution or the other. That way the Commissioners would not be endorsing one interpretation of prevailing usage or another. He was also concerned that the voting was biased because only comments 'against' were circulated. Apparently Commissioners who voted in favour did not make comments but he would like to hear what those in favour thought. For his part he voted FOR both times, because he thought '*Raja say*' was an inherently confusing name. Preventing names like this from being introduced to begin with was the reason for Recommendation 31A, which was cited in the application. A biologist encountering this name for the first time was likely to wonder if it was a misspelling, since Say was the name of a well-known author. He noted that the Commission had the opportunity here to remove confusion. He thought that it was preferable to cancel the vote because the result was ambiguous. With the vote, the Commission had not put one name or the other on an Official List or Index, it had just declined to act, but that had left a situation where the authors of the petition had asserted that *sayi* was in prevailing use, so that name should continue in use. Brothers gave the same reasons for his vote, while Van Tol said that the remark of Rosenberg, viz. that Kojima's proposal was not explicitly included in the options, might be a good reason to vote again on this Case during the next voting period (which would mean cancelling the results of the present voting). Pyle said that he agreed that there should have been another vote on this, to provide a definitive answer. However, given that the first vote did not seem to have made a definitive decision, he asked if it was necessary to cancel the previous one. He wondered, if it was possible just to establish a new Case with a more definitive proposal, and then vote on that new Case. He favoured casting a new vote and cancelling the old one. Alonso-Zarazaga supported him saying that he would prefer casting a new vote on the issue, because it was better to give a clear answer to this Case. Grygier pointed out that there was an error in the original Case (para. 5), which wrongly cited Article 33.3.1 when 33.2.3.1 was actually meant (the former pertains to incorrect subsequent spellings).

In the new second round of voting the Commissioners commented as follows:

Bouchet, voting FOR the first set of proposals, and AGAINST the second set, agreed with Rosenberg's comment that '*Raja say* was an inherently confusing name since Say was the name of a well-known author'. Grygier, voting AGAINST the first set and FOR the second set of proposals, reiterated his previous argument. Kojima, voting AGAINST the first set and FOR the second set of proposals, thought that this was a matter of language. To those whose mother tongue was of Latin origin and/or those who are accustomed to such languages the word '*say*' might sound strange as a specific name. On the other hand, those whose mother tongue was not of Latin origin might not find a critical difference between '*say*' and '*sayi*'. Unless the absolutely prevailing usage of '*sayi*' was properly demonstrated, the original name, '*say*' should be conserved and the definitive decision that '*sayi*' was an unjustified emendation should be made. Kullander, voting AGAINST the first set and FOR the second set of proposals, said that patronyms as nouns in apposition were perfectly acceptable. Yanega, voting FOR the first set of proposals and AGAINST the second set, explained his vote by reiterating a comment by Bunkley-Williams & Williams 'I

hope we are correct in our assumption that the Commission exists to eliminate confusion’.

Voting on Set 2, the Commissioners commented as follows:

Voting FOR, Brothers said that since the Commission had not agreed to validate the spelling *sayi*, a definitive decision on its status was required. Voting FOR, Kottelat asked to finalize the Case. He reminded that even if the wording of the original application did not state so, its aim had been to end the confusing usage of both *say* and *sayi*, and the procedure of voting could be made more efficient to make the revote of Jun 2013 the final vote on the entire Case, whether or not one set of proposals had been added. Voting FOR, Winston said that many nouns in apposition were used in the past. Taxonomists who wanted to honour a popular scientist often tried to figure out ways to put the honoree’s name a little differently than others had done, e.g. using last name in genitive, using last name as noun in apposition, combining first and last names, using first name, etc. Not all nouns in apposition are patronyms, some are even tautonyms. All of them could be seen as confusing (although mainly to those who studied Latin). Allowing this change set a precedent that could result in a whole lot of ‘confusion’ to eliminate if those working on other groups decided to do likewise. Also voting FOR, Kojima said that under the condition that Set 1 had failed, unless Set 2 were approved, either *say* or *sayi* would continue to be used, increasing nomenclatural instability. Also voting FOR, Alonso-Zarazaga said that this was a good Case for making the Committee for the Fifth Code think about the opportunity of suppressing specific names based on personal names in apposition retroactively (like *Dasyatis say* or *Acestrura mulsant*), making mandatory the use of the genitive form and avoiding confusion. This would considerably simplify the Code as well, he added. Voting AGAINST, Halliday said that the original species name *say* was correctly formed. The change from *say* to *sayi* was an unjustified emendation. The name *sayi* did not have a substantial majority of prevailing usage, so it could be protected under Article 33.2.3.1. Formal application of the Code therefore led to the inevitable conclusion that *say* should be regarded as correct. However, if the name *say* was retained, that decision would not be respected by the community, the spelling *sayi* would persist in usage, and nothing would be achieved. The only way to achieve stability was to vote in favour of *sayi*. Also voting AGAINST, Rosenberg explained that he voted so as it was inherently confusing to have a personal name, particularly the name of a zoological author, used as a noun in apposition. Also voting AGAINST, Bouchet said that he saw no reason to change his earlier vote, as he believed *Raja say* was an inherently confusing name. Also voting AGAINST, Yanega said that he was still of the opinion that the Commission’s goal to promote stability in nomenclature was more important than adherence to strict priority; as such, there was ample evidence that so long as the name *Raja say* was considered valid, people would continue to be confused by it, and continue to misspell it as *sayi* even if there was a Commission ruling declaring *sayi* invalid. Such a ruling would not prevent the incessant reappearance of *sayi* in the literature, and would, therefore, not stabilise the nomenclature. The existence of other species with similarly-formed epithets was irrelevant, especially in that none are such prominent species as this one; the body of literature for this one species is vast, as is the impact of the instability, he added.

Original references

The following are the original references to the names placed on either an Official List or Index by the ruling given in the present Opinion:

say, Raja, Le Sueur, 1817, *Journal of the Academy of Natural Sciences of Philadelphia*, **1**(3): 42.
sayi, Raja, Müller & Henle, 1841, *Systematische Beschreibung der Plagiostomen*, Berlin, p. 166.